

# Committee on Resources

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## Witness Testimony

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Testimony on HR 1739 and HR 2149  
U.S. SENATOR ROD GRAMS (R-ID)  
Before the  
House of Representatives  
Subcommittee on Forests and Forest Health  
September 9, 1997

Thank you, Chairman Chenoweth, for your leadership in discussing fairness and accessibility to the Boundary Waters Canoe Area Wilderness. I appreciate your support and willingness to listen and learn. I would also like to thank Congressman Oberstar for his tireless efforts in seeing that the people of northern Minnesota have an effective voice in the House of Representatives.

This afternoon you will hear from a diverse group of individuals who believe strongly in the concept that government must be accountable to the people and to its promises. Among those testifying is Dr. Ed Pavек. Dr. Pavек is a resident of Minnesota's Third Congressional District, represented by Congressman Ramstad. I hope everyone in the room today will listen closely to Dr. Pavек's moving testimony.

Matters of fairness and access in and around our public lands are not isolated to northern Minnesota. All of us have worked with constituents in our states who have felt the impacts of overzealous federal land use policies. The West, in particular, continues to experience some of the most aggressive government action on matters concerning property rights, access and equity.

Like most Minnesotans, I have always appreciated the Boundary Waters Canoe Area. I have enjoyed fishing since childhood, and naturally was aware long before my election to the Senate that some of the best fishing in the nation is found in northern Minnesota. I knew that people came from all over the country, and in fact from around the world, to experience the splendor of my state and the natural treasures it offers. Little did I know, however, that those treasures were being coveted by a few to the detriment of many.

Not long after I began my service in the Senate, I was introduced to the current controversy surrounding the BWCAW. Several officials from northern Minnesota approached me with concerns about federal policies regarding two areas; the BWCAW and Voyageurs National Park. Most of those officials happened to be Democrats, but all were passionate about the fact that the culture and traditions of northern Minnesotans were being ripped from their roots by the courts, the federal government, and extremists bent on claiming northern Minnesota for the enjoyment of only a few. It wasn't long before I began hearing from a large, unorganized coalition of people feeling the same pressures and concerns about their association with the federal government.

Since then, I have traveled the counties of northern Minnesota countless times listening to and seeing first hand the sacrifices of the people of my state. This committee, along with the Senate Energy and Natural Resources Committee, has participated in a number of hearings throughout Minnesota and here in Washington to receive direct testimony from all interested parties. We, in Congress, rarely take in so much testimony and participate in such an array of activities prior to acting on legislation so limited in scope.

With that introduction, let me explain the bills Congressman Oberstar and I have introduced.

The 1964 Wilderness Act added the BWCA to the National Wilderness Preservation System with some significant exceptions for traditional multiple uses including logging, mining and extensive motorized recreation. In fact, the retention of motorized access was essential to the inclusion of the BWCA in the Wilderness Act. It may not have been a perfect agreement for either side, but it was an agreement based in trust, faith and the promises of the federal government. Understanding that simple fact is essential to understanding the complex nature of such a fragile compromise.

Motorized recreational opportunities, as well, were an integral portion of the promises made by Minnesota Senator Hubert H. Humphrey to the people of northern Minnesota. Senator Humphrey's assurances were direct and unmistakable. He said, "Minnesotans who live near the Superior National Forest Roadless Area will benefit rather than be harmed in anyway under the provisions of the Wilderness Bill now pending before Congress. The Wilderness Bill will not ban motorboats from the Superior National Forest and any such claim is just a scarecrow to frighten people. Nothing in this bill would stop the present use of motorboats in the Caribou, Little Indian Sioux and the Superior roadless areas of Northern Minnesota." Senator Humphrey's words left no doubt as to the intention of Congress and the expectations of northern Minnesotans. Again, without those assurances, there would indeed be no BWCAW to discuss today.

Unfortunately, Senator Humphrey's vision for the BWCA was not shared by those extremists who began a push over the next two decades to revise the agreements reached in 1964. Yet again, northern Minnesotans found themselves engaged in tenuous, oftentimes fierce, debates to protect their way of life and access to the BWCA. There are many who believe they crafted a strategy which would place them directly in the courts to challenge the very agreements for which they sought. Their strategy paid off, and in 1978, negotiations led to a revision of the 1964 Wilderness Act and new restrictions and pitfalls for the people of northern Minnesota. Under the 1978 revision, Congress rightfully acknowledged the need to protect the tremendous ecological and recreational resources within the area by banning logging and mining, maintaining the wilderness solitude of the area, but still allowing for limited motorized recreational opportunities. Motorboats were allowed to operate on 22 of the over 1,100 lakes within the area.

Access to a few of those motorized lakes required portaging a boat over distances ranging from mile to four miles, across small dirt roads littered with rocks and made difficult to travel by holes and hills. For decades, these portages across such long distances were accomplished by using a truck to transport the boats. I want to repeat this fact: the portages connect already motorized lakes. The use of the trucks allowed families, senior citizens, small groups, and individuals with disabilities the opportunity to enjoy an unparalleled wilderness experience. When the 1978 Bill revised the BWCA, it included a provision that allowed the trucks to remain unless a "feasible non-motorized alternative" was developed.

Regrettably, the creation of the nation's largest water-based wilderness area was not enough for the extremists.

In 1992, extremists sued the U. S. Forest Service to close the motorized portages. The lower court upheld the Forest Service's decision that no "feasible non-motorized alternative,, existed. Upon appeal, however, by a 2-to-1 margin, an appellate court overturned the lower court's decision and removed the motorized portages. The decision relied upon the court's definition of the word "feasible." Let us allow the words of those bringing the suit to speak for themselves. I will read from their book, Troubled Waters, which details how environmentalist attorney Charles Dayton, who aided in the revision of the 1964 bill, intentionally deceived the attorney representing northern Minnesota, Ron Walls, in the legislative drafting sessions:

"There were two concealed traps in Dayton's language. First the burden of proof would lie with those who wanted to keep the portages open, not those who wanted them closed. Second, the term 'feasible' was a term of art in the environmental law field designating something that was possible from an engineering standpoint -- it could take longer, be less convenient and even downright tortuous and still meet the court's definition. Dayton was relatively sure that Walls had attached a layman's interpretation to the language, not the narrower definition imposed by the courts. 'Candidly,' Dayton recalled, 'I doubt whether Ron as a general practitioner in a small town knew that. And I didn't tell him about it.'" The citizens of northern Minnesota who were duped believe that deceit and trickery are not admirable traits and certainly nothing to brag about in books and articles.

Just seven weeks ago, a few of us returned from another trip to the BWCAW. In a small town hall in Greenwood Township, Chairman Chenoweth and I listened to the concerns of Minnesotans for over three hours. We heard directly from individuals with disabilities, senior citizens, and families who will tell you it is not feasible for them to lift a boat out of the water, place it on a wheeled cart and push or pull it anywhere as far as 4 miles over hills and rocks. David Skogman, a young man restricted to a wheelchair, told his story of no longer being able to access his favorite fishing spot on Trout Lake. Earl Madden, a resident of Hibbing, Minnesota who recently had heart surgery, echoed David's comments and those of countless other people testifying that day.

The removal of the portages effectively ended a "wilderness experience,, for many who lack the physical abilities to cross the portage manually. In some cases, Minnesotans like Mr. Madden who have lived in the area their entire lives, are no longer able to use fishing spots or visit lakes which they have enjoyed since childhood. It is clearly not feasible for people in these situations to manually portage across any distance, much less four miles.

Madam Chairman, I want to assure you that we who support this bill have just as much -- if not more -- interest in protecting the BWCAW and assuring its continued prosperity. Our bill has a broad list of supporters. As you can see from this list of quotations, supporters include Democrats in the Minnesota State Legislature, veterans with disabilities, union members and their leaders, and the entire spectrum of citizens and wilderness enthusiasts. This diverse, bipartisan group of individuals believe strongly in the concept that our wilderness lands must be protected for future generations to enjoy. But they realize that to shut out anyone, be they young or old, strong or weak, from experiencing the splendor of the BWCAW is just plain wrong. it was wrong 20 years ago and it is wrong now.

Throughout the last two years, Congressman Oberstar and I have worked hard to assure that we are debating the facts. Our patience has been tried a number of times by special interest groups who are more interested in fundraising scare tactics than the truth. So many times, good legislation and good public policy are delayed by marginal issues rather than substance. I have been encouraged, however, to hear the comments of some of my colleagues in recent weeks. Senator Bumpers, Ranking Minority Member on the Senate Energy and Natural Resources Committee, has expressed support for opening at least two portages because the current situation is clearly not feasible. Senator Wellstone, in legislation recently introduced, also acknowledged that restoration of the motorized portages is necessary. The St. Paul Pioneer Press, in an article following mark-up of my bill, opened by stating, "All of a sudden, motorized portages in the Boundary Waters Canoe Area Wilderness don't seem like such a bad idea."

I remain concerned, however, that recent efforts to expand the legislative scope of this issue are unwise. Issues on federal land expansion are too complex and require the input of too many affected parties to be

included in a bill so limited in scope. Furthermore, they continue to erode and violate the 1978 agreement. The bills introduced by Congressman Oberstar and I reinstate its original intent.

The people of northern Minnesota should not pay more to regain that which was wrongly taken from them. As Members of Congress, our primary concern should be to assure the citizens of our country that its government is accountable, honest, and trustworthy. We must stick to the goal of living up to the hard-fought past agreements.

I look forward to the passage of this bill and the restoration of faith in the federal government among the people of my state. It is difficult to return home and hear their stories of betrayal and regret. It is hard for any Member of Congress to witness problems for which government is partially responsible. Yet through legislation such as that which Congressman Oberstar and I offer, it is satisfying to know that we have an opportunity to right the wrongs of the past. That is what I hope to accomplish with this bill and why I ask that you support the efforts of Congressman Oberstar and myself, and those of the people of Minnesota. A deal is a deal, and a promise is a promise. The people of northern Minnesota have waited long enough for Congress to restore the assurances of one of Minnesotans most respected leaders, Hubert Humphrey.

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